

107TH CONGRESS
1ST SESSION

S. 80

To require the Federal Energy Regulatory Commission to order refunds of unjust, unreasonable, unduly discriminatory or preferential rates and charges for electricity, to establish cost-based rates for electricity sold at wholesale in the Western Systems Coordinating Council, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2001

Mrs. BOXER (for herself and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To require the Federal Energy Regulatory Commission to order refunds of unjust, unreasonable, unduly discriminatory or preferential rates and charges for electricity, to establish cost-based rates for electricity sold at wholesale in the Western Systems Coordinating Council, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “California Electricity
5 Consumers Relief Act of 2001”.

1 **SEC. 2. ADDITIONAL REFUND AUTHORITY UNDER FEDERAL**
2 **POWER ACT.**

3 Section 206 of the Federal Power Act (16 U.S.C.
4 824e) is amended by adding the following at the end there-
5 of:

6 “(e)(1) The provisions of this subsection shall apply
7 only to refunds of rates and charges in effect pursuant
8 to a rule or order of the Commission providing for market-
9 based rates and charges for a transmission or sale of elec-
10 tric energy subject to the jurisdiction of the Commission.
11 The provisions of subsection (b) concerning refunds shall
12 not apply to such rates and charges.

13 “(2) When the Commission has found, after notice
14 and opportunity for a hearing, on its own motion or upon
15 complaint, that any rate or charge referred to in para-
16 graph (1) is unjust, unreasonable, unduly discriminatory
17 or preferential, the Commission shall order a refund of
18 the portion of such rate or charge that exceeds the rate
19 or charge that the Commission finds to be just, reasonable
20 and not unduly discriminatory or preferential. Such re-
21 fund shall include interest from the date on which the rate
22 or charge was paid.

23 “(3) No order providing for a refund under this sub-
24 section may be issued with respect to amounts paid prior
25 to the date 2 years before the date on which the notice

1 referred to in paragraph (2) is published in the Federal
2 Register.”

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall not apply to any complaint filed before
5 August 1, 2000.

6 (c) SAVINGS PROVISIONS.—Nothing in the amend-
7 ment made by subsection (a) shall affect any authority
8 of the Commission (or of any court) existing before the
9 enactment of this section, including any such authority to
10 issue any rule or order relating to market-based rates, to
11 approve or fix rates and charges, or to order refunds of
12 any rate or charge.

13 **SEC. 3. ESTABLISHMENT OF COST-BASED RATES FOR**
14 **WHOLESALE SALES OF ELECTRICITY IN THE**
15 **WESTERN UNITED STATES.**

16 (a) EXERCISE OF AUTHORITY TO ESTABLISH MAX-
17 IMUM PRICES.—

18 (1) DETERMINATION ON ITS OWN MO-
19 TION.—The Federal Energy Regulatory Com-
20 mission shall issue an order establishing the
21 maximum price for electricity sold at wholesale
22 subject to the jurisdiction of the Commission
23 under the Federal Power Act in the Western
24 Systems Coordinating Council for any period
25 after June 1, 2000, if the Commission deter-

1 mines that any rates charged for such wholesale
2 sales of electricity are unjust, unreasonable, un-
3 duly discriminatory or preferential under sec-
4 tion 206 of the Federal Power Act. The Com-
5 mission may make such determination on its
6 own motion at any time. If the Governor of any
7 State within the Western Systems Coordinating
8 Council submits a petition to the Commission to
9 make such determination with respect to any
10 such rates, within 30 days after receipt of the
11 petition, the Commission shall determine if such
12 rates are unjust, unreasonable, unduly discrimi-
13 natory or preferential under section 206 of the
14 Federal Power Act.

15 (b) MAXIMUM PRICE.—The maximum price estab-
16 lished by the Federal Energy Regulatory Commission pur-
17 suant to subsection (a) shall be a price based on the sell-
18 er's costs, including a return of and on invested capital,
19 established in accordance with part II of the Federal
20 Power Act.

21 (c) REFUNDS OF PRICES PAID IN EXCESS OF MAX-
22 IMUM PRICE.—Any prices paid in excess of the maximum
23 price established pursuant to this section shall be refunded
24 pursuant to section 206 of the Federal Power Act, as
25 amended by section 2 of this Act.

1 (d) PENALTIES.—Any person who violates any re-
2 quirement of this section shall be subject to civil penalties
3 equal to 3 times the value of the amount involved in such
4 violation. The Federal Energy Regulatory Commission
5 shall assess such penalties, after notice and opportunity
6 for public hearing, in accordance with the same provisions
7 as are applicable under section 31(d) of the Federal Power
8 Act in the case of civil penalties assessed under such sec-
9 tion 31.

10 (e) SAVINGS PROVISIONS.—Nothing in this section
11 shall affect any authority of the Commission existing be-
12 fore the enactment of this section to approve or fix rates
13 and charges, or to order refunds of any rate or charge.

14 **SEC. 4. SEVERABILITY.**

15 If any provision of this Act is found to be unenforce-
16 able or invalid, no other provision of this Act shall be in-
17 validated thereby.

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